Divorce

Issue No. 1- A man who divorces his wife must be sane, and must also be adult, and he should divorce of his own free will, therefore, if someone compels him to divorce his wife, that divorce will be void. It is also necessary that he seriously intends to divorce; therefore, if he pronounces the formula of divorce jokingly, the divorce will not be valid.

Issue No. 2- The formula for divorce should be pronounced in correct Arabic, and it is obligatory that two just men hear it. If the husband cannot pronounce the formula for divorce in correct Arabic, he should appoint a representative (Wakil) who is able to do that correctly. And if it is not also possible for him, then he can pronounce the formula in any other language with the same meaning.

Issue No. 3- If the husband himself wishes to pronounce the formula for divorce, and his wife's name is, for example, Fatima, he should say, **"Zawjati Fatima taliq"** (i.e. my wife Fatima is divorced), and if he appoints another person as his Wakil to pronounce the formula of divorce, the Wakil should say, **" Zawjatu muwakkili Fatima taliq"** (Fatima, the wife of my client is divorced).

Issue No. 4- It is necessary that at the time of divorce, the woman is clean from Hayz and Nifas, and that the husband should not have had sexual intercourse with her during that period.

Issue No. 5- It is valid to divorce a woman even if she is in Hayz or Nifas in the following three circumstances:

1- If the husband has not had sexual intercourse with her at all after marriage.

2- If she is pregnant.

3- If the husband is absent from his wife for one month or more.

Issue No. 6- If a person has had sexual intercourse with his wife, and wishes to divorce her, he should wait till she enters into Hayz again and becomes clean. However, if she is pregnant, he can divorce her immediately after having had sexual intercourse. The same rule applies to a wife in menopause.

Issue No. 7- There is no question of divorce in temporary marriage, and as soon as, the period expires or the man forgoes with the period of the marriage, the woman is separated and divorced.

Iddah of Divorce (The waiting Period after Divorce)

Issue No. 8- It is necessary for a woman who has been divorced to observe **Iddah** (waiting period), unless the husband has not had sexual intercourse with her at all, or she is in her menopause.

Issue No. 9- The **Iddah** for women who have monthly period is that, they should wait till they see Hayz twice and become clean. Thereafter, as soon as they see Hayz for the third time, their waiting period will be over.

Issue No. 10- A woman who does not see Hayz, but she is in the age of women who normally see Hayz, she should observe Iddah for three months.

Issue No. 11- If a pregnant woman is divorced, her **Iddah** (waiting period) lasts till the birth of the child.

Issue No. 12- Iddah for a temporary marriage after the expiry of the period of the marriage, for women who see Hayz, is for two complete periods of Hayz, and if they do not see Hayz, is for forty five complete days.

Issue No. 13- The time of the **Iddah** of divorce commences when the formula of divorce is pronounced.

Iddah of a woman whose husband has died

Issue No. 14- A woman whose husband has died, should observe Iddah for 4 months and 10 days, irrespective of whether the marriage is permanent or temporary, or her husband has had sexual intercourse with her or not. Even a woman in menopause should observe **Iddatul Wafat** (Waiting period after the death of one's husband).

Issue No. 15- The Iddah of death begins, in the situation when the husband is absent and dies, when the wife learns of his death.

Irrevocable and Revocable Divorce

Issue No. 16- Divorces are of two kinds: **"Irrevocable"** and **Revocable"** divorce.

Irrevocable divorce means that after the divorce, the husband is not entitled to take back her wife, that is, he is not entitled to take her as his wife without Nikah. This divorce is of five kinds, namely:

(i) The divorce of a woman who has not completed the age of seeing Hayz.

(ii) The divorce of a woman who is in menopause.

(iii) The divorce of a woman whose husband has not had sexual intercourse with her after their marriage.

(iv) The third divorce of a woman who has been divorced three times.

(v) The divorce called **Khula'** and **Mubarat** which will be explained later.

Divorces other than these are revocable, in the sense that as long as the wife is observing Iddah her husband can take her back.

Orders Regarding Return (Ruju')

Issue No. 17- During the period of Iddah, the man should pay all expenses of his wife for her maintenance, and he is not allowed to deport her form his house.

Issue No. 18- In the case of a revocable divorce a man can take back his wife without pronouncing a fresh Nikah, and it is of two kinds:

(i) By telling her words which would mean that he has accepted her again as his wife.

(ii) By acting in a manner which would convey the same.

Issue No. 19- It is not necessary for the husband, in order to take her back, to call any person for witness, but it is recommended to call two witnesses.

Issue No. 20- If a person divorces his wife twice and takes her back by Nikah, or makes Ruju' to her, and if each time he has sexual intercourse with her, and after she sees Hayz and becomes clean divorces her, the third time that he gives divorce to her, she becomes haraam for him. She will become halal for him if, after she has observed the waiting period, she marries, on the basis of permanent marriage another man and has sexual intercourse with him, afterwards get divorced from him and observes the Iddah, then the first husband can marry her.

Khula' Divorce

Issue No. 21- A wife, who develops an aversion from husband and is not willing to live with him and there is fear that the continuation of their marriage life will lead to committing sin, she can surrender to him her Mahr or some of her other property so that he may divorce her. This is called 'Khula' divorce'.

Issue No. 22- The formula of Khula' divorce should be as follows:

If the husband himself wishes to pronounce the formula of Khula' divorce and his wife's name is Fatima, he should say after receiving the property, **"Zawjati Fatima Khala'tuha 'ala ma bazalat, hiya taliq"**, i.e. "I have given Khula' divorce to my wife Fatima in lieu of what she has given me, and she is divorced".

And if his representative wants to pronounce the formula, a person should be appointed by the woman on her behalf as her representative and another one on behalf of the man. If the husband's name is Muhammad and the wife's name is Fatima, the woman's representative should say, **"An muwakkilati Fatima bazalat mahraha li muwakkilaka Muhammad li yakhla'aha 'alayh"**, then the man's representative should say at once, **"Zawjatu muwakkili khal'tuha 'ala ma bazalat, hiya taliq"**. (And if the wife gives something other than Mahr to her husband, the name of the same thing should be mentioned at the time of pronouncing the formula).

Mubarat Divorce

Issue No. 23- If the husband and the wife develop mutual aversion, and the wife gives her Mahr or some other property (which is less voluble than her Mahr) to the man so that he may divorce her, this divorce is called 'Mubarat'.

Issue No. 24- The formula of Mubarat divorce should be pronounced as follows:

If the husband himself pronounces the formula and his wife's name is Fatima, he should say, **"Bara'tu zawjati Fatima 'ala ma bazalat, wa hiya taliq"**, i.e. "My wife Fatima and I

separate from each other in consideration of what she has given me, and she is divorced". And if the man's representative wants to pronounce the formula, he should say, **"Bara'tu zawjata muwakkili Fatima 'ala ma bazalat, wa hiya taliq"**.

Issue No. 25- If a woman lays a condition at the time of Nikah that if her husband does not give her maintenance for a period of time, or gets addicted to drugs, or he marries another woman, she will be his Wakil for her own divorce, this Wakalat (agency) is in order, and she is entitled to divorce herself.

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